THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 19021 of 2005

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Dated:12.09.2005

Between:

Md. Vazeer S/o. Late Md. Sultan,
R/o. H.No. 10-4-13/5/1, Masabtank, Hyderabad,

..... PETITIONER

AND

The District Collector , Ranga Reddy District, Lakdi-ka-Pul,
Hyderabad, and others.

.....RESPONDENTS

ORDER:

The petitioner assails the orders of the second respondent in case No.D5/481/2001, dated 05.03.2005. The said orders were passed purporting to be in exercise of the powers under Section 9 of the A.P.Rights in Land & Pattadar Pass Books Act, 1971 (for short 'the Act') .

The petitioner claims that his father, Md.Sultan, was pattadar of lands in Survey Nos.1 to 154 of Surmaiguda Village of Hayathnagar Mandal, Ranga Reddy District. There were some tenants in the land who acquired necessary rights as protected tenants. In 1964, after the death of Md.Sultan, in the revenue records the lands were shown as belonging to the Government. The petitioner claims that the respondents did not take any action under any law before changing the revenue records, though the entries revealed the name of his father till 1968. The petitioner, therefore, filed a revision before the second respondent in 2001 and also engaged an advocate. The petitioner alleges that when the advocate expressed inability to appear in the matter, the petitioner engaged another advocate who also could not appear as he was appointed as Government Pleader. Therefore, the petitioner was forced to engage a third advocate. The petitioner came to know that the case was called by the second respondent on 05.03.2005 and was dismissed, as the appellant (petitioner) as well as his counsel was absent. The petitioner applied for certified copies. When he was given the certified copies of one line order of the second respondent, as well as another order in the same case bearing same date, the present writ petition filed.

After preliminary hearing, this Court entertained doubt whether the second respondent passed an order dismissing the revision for default on 05.03.2005 and whether the second respondent also passed an order on merits on the same day. The file is produced before this Court. The same would show that the second respondent passed the orders on 05.03.2005 in the note at page No.8 of the note file. Curiously, on the same day another order was passed on merits on the representation of Mr.Yunnis Sultan, Ex MLA, Khammam. The office of the second respondent, indeed, put up a note to the Joint Collector at page No.8 to the effect that as per Section 9(7) of the Act there is no power to review or recall the orders passed by the Joint Collector in exercise of Section 9 of the Act. In spite of the same, the impugned order on merits was passed.

The learned counsel for the petitioner attacked the order of the Joint Collector on the ground that as the petitioner changed the lawyer due to unavoidable circumstances, there was no effective notice to the petitioner either directly or through his counsel, and therefore, the impugned order is unsustainable. There is force in the submission made by the learned counsel for the petitioner. On this ground alone this matter is being disposed of.

The impugned orders are set aside and the matter is remitted to the Joint Collector with a direction to issue notice to the petitioner and afford an opportunity of being heard and dispose of the matter on merits. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(V.V.S.RAO, J)

12.09.2005

vs

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